

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

SHELTON LEE,	:	CIVIL ACTION NO.
GDC ID # 1145679, Case # 534293,	:	2:13-CV-00140-RWS-JCF
Petitioner,	:	
	:	
v.	:	
	:	
BILLY BROWN,	:	PRISONER HABEAS CORPUS
Respondent.	:	28 U.S.C. § 2254

MAGISTRATE JUDGE'S FINAL REPORT AND RECOMMENDATION

Previously, the undersigned recommended dismissing this habeas corpus action and Petitioner's companion action, 2:13-cv-141, filed on the same day, as a combined second or successive petition. (Doc. 9). Petitioner has filed objections in the companion case, asserting that he never intended to initiate a habeas corpus action via his pleadings in this and the companion case, which were intended instead to constitute a Federal Rule of Civil Procedure 60(d) motion challenging the dismissal of his previous habeas corpus action in this Court as the alleged result of fraud upon this Court. Accordingly, the District Court has referred this matter back to the undersigned for consideration of Petitioner's Rule 60(d) motion. (Doc. 11).

Petitioner's objections in his companion case make clear that he has no desire to pursue this habeas corpus action. In fact, he has filed a motion to dismiss this action

voluntarily so that his companion case may proceed as an independent action. (Doc. 8).

IT IS RECOMMENDED therefore that this habeas corpus action be **DISMISSED** in accordance with Petitioner's wishes, as expressed in his motion for voluntary dismissal.

The Clerk is **DIRECTED** to terminate the referral to the Magistrate Judge.

SO RECOMMENDED and DIRECTED this 8th day of August, 2013.

/s/ J. CLAY FULLER
J. CLAY FULLER
United States Magistrate Judge